

SENATE BILL 426
By Jackson

AN ACT to amend Tennessee Code Annotated, Title 39
and Title 40, relative to the offense of stalking.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-315, is amended by deleting the section in its entirety and substituting instead the following:

39-17-315.

(a) As used in this section:

(1) "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying verbal or written threats or threats implied by conduct such as vandalism, harassment or theft or a combination thereof directed at or toward a specific person.

(2) "Repeatedly" means on two (2) or more separate occasions.

(3) "Immediate family" means a spouse, parent, child, sibling, or any other person who regularly resides in the household or who within the prior six (6) months regularly resided in the household.

(b) A person commits the offense of stalking who intentionally engages in a course of conduct directed at a specific person in such a manner as would cause that person to be in reasonable fear of an assault, a sexual offense, bodily injury, or death to such person or such person's immediate family.

(c)

(1) Stalking is a Class A misdemeanor.

(2) A second or subsequent violation of subsection (b) within a ten year period involving any victim is a Class D felony.

(3) A second or subsequent violation of subsection (b) involving the same victim is a Class C felony.

(d) For purposes of owning, buying, selling, or possessing a firearm or for the purpose of being eligible for a handgun carry permit, a conviction for a first violation of subsection (b) shall be considered the same as a conviction for a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921.

(e)

(1) For purposes of determining if a course of conduct amounting to stalking is a single offense or multiple offenses, the occurrence of either of the following events breaks the continuous course of conduct, with respect to the same victim, that constitutes the offense:

(A) The defendant is arrested and charged with stalking; or

(B) The defendant is convicted of stalking.

(2) If a continuing course of conduct amounting to stalking engaged in by a defendant against the same victim is broken by either of the events set out in subdivision (1), any such conduct that occurs after that event commences a new and separate offense.

SECTION 2. Tennessee Code Annotated, Section 40-6-205, is amended by deleting subsection (b)(1) and substituting instead the following:

(1) The offense complained of is a felony, as defined in § 39-11-110, or the offense of stalking, as defined in § 39-17-315;

SECTION 3. Tennessee Code Annotated, Section 40-6-215, is amended by deleting subsection (a)(2)(A) and substituting instead the following:

(A) The offense complained of is a felony, as defined in § 39-11-110, or the offense of stalking, as defined in § 39-17-315;

SECTION 4. Tennessee Code Annotated, Section 40-11-150, is amended by deleting from the first sentence of subsection (a) the language:

for the release of a defendant who is arrested for any criminal offense defined in title 39, chapter 13,

and substituting instead the following:

for the release of a defendant who is arrested for the offense of stalking as defined in § 39-17-315, any criminal offense defined in title 39, chapter 13,

SECTION 5. Tennessee Code Annotated, Section 40-11-150, is amended by deleting from the first sentence of subsection (h)(1) the language:

Any offender arrested for any criminal offense defined in title 39, chapter 13, and substituting instead the following:

Any offender arrested for the offense of stalking as defined in § 39-17-315, or any criminal offense defined in title 39, chapter 13,

SECTION 6. Tennessee Code Annotated, Section 40-35-303, is amended by deleting subsection (m) and substituting instead the following:

(m) In determining whether a person convicted of the offense of stalking as defined in § 39-17-315, or any criminal offense defined in title 39, chapter 13, in which the victim falls within the definition set forth within § 36-3-601(8), should be granted probation, the court shall consider the safety and protection of the victim of such offense and of any other member of the victim's family or household.

SECTION 7. This act shall take effect July 1, 2005, the public welfare requiring it.